

APPEAL NO. 041686
FILED SEPTEMBER 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 10, 2004, and continued with the record closing on June 15, 2004. The hearing officer determined that the Independent Review Organization (IRO) decision is not supported by a preponderance of the evidence. The appellant (carrier) appealed this determination. The respondent (claimant) responded, urging affirmance.

DECISION

Affirmed.

Whether the IRO's decision was supported by a preponderance of the evidence was a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In the instant case, the hearing officer was persuaded by the medical reports in evidence that the requested spinal surgery is medically necessary treatment. The carrier asserts that the hearing officer did not indicate what evidence she relied on to show that medical reports overcome the presumptive weight of the IRO decision. Section 410.168(a) only requires the hearing officer to make findings of fact and conclusions of law, determine whether benefits are due, and award benefits, if any. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge